

AN ACT

RELATING TO PUBLIC HEALTH; ESTABLISHING ISOLATION PROCEDURES FOR PATIENTS WITH COMMUNICABLE DISEASES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-1-15 NMSA 1978 (being Laws 1973, Chapter 359, Section 15) is amended to read:

"24-1-15. REPORTING OF CONTAGIOUS DISEASES.--

A. Whenever any physician or other person knows that any person is sick with any disease dangerous to the public health, he shall promptly notify a public health official or his authorized agent.

B. A public health official who has knowledge that a person is currently infected with a threatening communicable disease and has refused voluntary treatment, detention or observation shall petition the court for an order to detain and treat the person who is infected with the threatening communicable disease until the person is no longer a contagious threat to the public or the person voluntarily complies with the appropriate treatment and contagion precautions.

C. The petition shall be made under oath or shall be accompanied by a sworn affidavit setting out specific facts showing that the person is infected with a threatening

communicable disease.

D. The petition shall state that the person to be detained:

(1) is actively infectious with a threatening communicable disease or presents a substantial likelihood of having a threatening communicable disease based on credible medical evidence;

(2) poses a substantial likelihood of transmission of the threatening communicable disease to others because of inadequate separation from others; and

(3) after being advised of his condition and the risks posed thereby, has refused voluntary treatment.

E. Upon the filing of a petition the court shall:

(1) immediately grant ex parte a temporary order of protection to isolate and begin treating the person infected with the threatening communicable disease if there is probable cause from the specific facts shown by the affidavit or by the petition to give the judge reason to believe that the person infected with a threatening communicable disease poses a substantial threat to the public health and safety;

(2) cause the temporary order of protection, notice of hearing and an advisement of the terms of the temporary protective order, including his right to representation and re-petition for termination of any

protective order that removes, detains and treats the infected person, to be immediately served on the allegedly infected person; and

(3) within five days after the granting of the temporary order of protection, hold an evidentiary hearing to determine if the court shall continue the order.

F. A person held pursuant to a temporary protective order as set forth in Subsection E of this section shall be:

(1) entitled to representation by counsel at the evidentiary hearing and at all hearings thereafter for the duration of the period of removal, detention and treatment; and

(2) permitted to communicate on any matter, including his removal, detention and treatment, with persons by telephone, or other reasonably available means, that do not expose other persons to the risk of infection for the duration of the period of removal, detention and treatment.

G. At the evidentiary hearing the court shall review the circumstances surrounding the temporary order and order a subsequent hearing within ninety days of the temporary order's issuance and every ninety days thereafter until:

(1) the person being held and treated completes his treatment and is certified by a public health

official to pose no further risk of infecting others;

(2) the person being held and treated can show, by clear and convincing evidence, that he can and will comply with appropriate treatment and contagion precautions voluntarily; or

(3) exceptional circumstances exist warranting the termination of the temporary protective order.

H. The provisions of this section do not permit the forcible administration of any other medications not reasonably required for the treatment of the threatening communicable disease without a prior court order.

I. For purposes of this section:

(1) "court" means the district court of the judicial district where the person who is alleged to be infected with a threatening communicable disease resides or is found;

(2) "public health official" means a district health officer, the director of the public health division of the department of health, a chief medical officer or a person designated by the secretary of health to carry out the duties provided in this section; and

(3) "threatening communicable disease" means a deadly disease that causes death or great bodily harm, passes from one person to another and for which there is no means by which the public reasonably can avoid the risk of

contracting the disease."

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